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with raised indicia thereon. The Examiner considered the indicia to be the indicia indicating articles to be cleaned, i.e., a cat. The Examiner acknowledged that *Channer* does not disclose the use of more than one sponge scrubber. However, the Examiner contended that it would have been obvious to one of ordinary skill in the art to provide two or more scrubbers with indicia thereon since this will allow each scrubber to be identified for each particular animal. The Examiner further noted that *Channer* teaches the "idea" of placing indicia on a sponge, and it is considered within the skill in the art to place any indicia on the sponge as desired. The Examiner further noted that the particular indicia on the sponge is not considered to be a patentable feature, and that the article of *Channer* merely has to be capable of performing the function defined in the claim. As for Claim 3, the Examiner considered the letters "CAT" to be symbols. With regard to Claims 10 and 11, the Examiner deemed different colors to be within one skilled in the art. Finally, as to Claim 12, the Examiner considered the method for making the indicia unpatentable.

In response, the Applicant again notes that nowhere does *Channer* indicate an identification system or the need for the same. Indeed, nowhere does *Channer* teach that the intended cleaning application for the article disclosed therein is even intended to be associated with cats or any member of the feline family. For all the Applicant and Examiner may know, the indicia of "cat" on the cleaning article could be a trademark from the manufacture of the scrubbing pads or a promotional item for Caterpillar Inc. *Channer* is a design patent. By definition, it teaches no utility, only ornamentation. It certainly does not teach a specific intended cleaning application. The cited art must somehow, somewhere suggest or motivate. It follows that to establish a *prima facie* case of obviousness, there must be some suggestion of

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motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, or to combine reference teaching. MPEP §706.02(j). Applicant respectfully submits that only through the use of Applicant's disclosure can a rejection reached by the Examiner stand. That is, there is nothing in *Channer* teaching an identification system or specific cleaning application, a concept obtained solely from Applicant's disclosure.

Here, the Examiner acknowledged that the *Channer* reference does not teach a plurality of cleaning articles. Thus, the reference certainly cannot teach a plurality of cleaning articles, each having a different indicia corresponding to a different specific intended cleaning application. This teaching, of course, must come from elsewhere. But where? First, for the Examiner to be correct, one skilled in the art would have to want to provide two or more specific cleaning articles for specific cleaning applications. Second, one skilled in the art would want to differentiate these cleaning applications. Third, distinctive indicia chosen to correspond to each such claim application must be adopted. *Channer* certainly does not teach these features, and other than Applicant's teaching herein, no other art teaches them as well. See MPEP §706.02(j).

Thus, in contrast to the Examiner's position, the "main difference" between *Channer* and the invention is not just "what information is placed on the sponge." Rather, it is the entire "idea" of the present invention, which is completely unfathomable even with *Channer* as a starting place. Again, as claimed, *Channer* does not teach the combination of a plurality of cleaning articles, each with a different indicia indicating its specific intended cleaning application. There is no basis whatever in the reference or in any other art made available to

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the Applicant in this action that one would provide a plurality of such cleaning articles in the identification system set forth in the presently claimed invention. The Applicant respectfully submits that the Examiner has not shown a *prima facie* case of obviousness. Thus, the Applicant respectfully requests reconsideration of the foregoing rejection.

However, even if a *prima facie* case of obviousness were shown (which Applicant does not concede), so-called secondary considerations or objective evidence of non-obviousness exist in this case. Submitted herewith are two letters from the marketplace, each of which refutes any conclusion of obviousness.

The first letter (Exhibit A) is from the Sales Manager of the Trouble Shooter Network, which operates an on-line store in conjunction with the nationally syndicated consumer radio show hosted by Tom Marino. The goal of the on-line store is to feature "innovative, unique, and exceptional products." The "cleaning articles" developed by the Applicant, as claimed herein, is aptly described as "innovative, unique and exceptional." They are hardly obvious.

Likewise is the attached letter (Exhibit B) from Sheahan Food Safety Consulting, describing the Applicant's "wonderful product." Indeed, as soon as available, 100 cases are to be sent to Sheahan Food Safety Consulting. Commercial success is quite probable here. Obviousness is not.

Obviousness Under 35 U.S.C. §103 Over *Channer* in view of *Gray*

The Examiner also rejected claim 4 on the basis of *Channer* in view of *Gray*, which the Examiner indicated shows the idea of making the outline of a sponge in the shape of an article, such as "joy." The Examiner contended that in view of the teachings of *Gray* it would be obvious to one in the art to modify *Channer* by making an outline of the shape in the form of a

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cat to create a more amusing and aesthetically pleasing display. In response, the Applicant notes the failure of *Gray*, as well as *Channer*, to disclose a plurality of cleaning articles each having different indicia as recited in the claims. There is no suggestion whatever in any of these references combined herein to reach this identification system and Applicant respectfully requests reconsideration and rejection thereof.

Obviousness Under 35 U.S.C. §103(a) Over *Ruth*

The Examiner rejected claims 1-3 and 5-17 under 35 U.S.C. §103(a) as being unpatentable over *Ruth*. The Examiner indicated that *Ruth* shows in the figure a towel that includes indicia thereon. The Examiner stated that the indicia of *Ruth* were considered to indicate the article to be cleaned. The Examiner again noted that *Ruth* did not disclose the use of more than one towel, but that it would have been obvious to those skilled in the art to provide two or more towels with indicia thereon. The Examiner asserted it would have been obvious to provide two or more towels with indicia thereon to create different towels, i.e., a towel for Monday, Tuesday, etc. With regard to claims 2 and 7, the Examiner deemed it within the skill to vary the text. As for claim 5, the Examiner deemed raised indicia or embedded indicia as obvious. With regard to claim 12, the Examiner gave the method of making the article little patentable weight.

Again, in response, the Applicant notes that there is no teaching whatever in *Ruth* that the dish towel or similar article bears any indicia indicating its intended use. *Ruth* is a design patent. The indicia on the towel of *Ruth* is therefore, by law, for decorative purposes solely, without any functionality as to the intended application. The only hint of using indicia to suggest a cleaning application comes from Applicant.

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Ruth, like the *Channer* reference discussed above, nowhere describes more than one cleaning article. To this point, the Examiner states: "Clearly, it is within one skilled in the art to provide two or more towels taught by *Ruth*." Why? Is there any art to back up this assertion? None is of record. Applicant respectfully submits that the Examiner is engaged in classic hindsight reconstruction and is using Applicant's own teaching against her. It is *Ruth*'s failure, like that of the prior art, to disclose an identification system as claimed for a plurality of cleaning articles that distinguishes the reference from the currently pending claims. Without the teaching of a plurality of cleaning articles there is absolutely no need for, and thus no teaching of, the identification system wherein individual cleaning articles have different indicia indicating their intention for a different cleaning application. Reconsideration is respectfully requested.

Obviousness Under 35 U.S.C. §103(a) Over *Ruth* in View of *Gray*

The Examiner further rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Ruth* as applied to claim 1 above and further in view of *Gray*. The Examiner noted that *Gray* teaches the use of making an outline of a sponge in the shape of an article. For the same reasons as set forth above, the Applicant contends that the reference of *Ruth* in view of *Gray* is likewise inappropriate and that neither reference discloses a plurality of cleaning articles each with a separate indicia indicating a separate cleaning application. For the reasons set forth above, reconsideration is respectfully requested.

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CONCLUSION

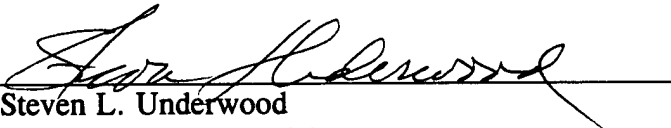
For the reasons set forth above, Applicant contends that the presently pending claims 1-18 are in allowable condition and reconsideration is respectfully requested. The Examiner is respectfully requested to contact the undersigned to set a time and date for a telephonic interview. Otherwise, should the Examiner find it useful, the Examiner is invited to contact the undersigned for further discussion as would be appropriate.

Respectfully submitted,

GIGI C. GORDON

By: PRICE, HENEVELD, COOPER,
DEWITT & LITTON

July 16, 2002
Date


Steven L. Underwood
Registration No. 35 727
695 Kenmoor SE
P.O. Box 2567
Grand Rapids, MI 49501-2567
616/949-9610

SLU/p



Home of Consumer Advocate Tom Martino

Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor S.E.
PO Box 2567
Grand Rapids, MI 49501
Tel: 616 949-9610
Fax: 616 957-8196
Attention: Steve Underwood
RE: Patent from Gigi Gordon

July 9, 2002

Dear Mr. Underwood,

Troubleshooter Network, a nationally syndicated consumer radio show and Internet referral list at www.troubleshooter.com, is getting ready to open an on-line store.

We are based in Denver, CO and are in over 250 markets across the United States. Our web sight is currently receiving over four million hits a month.

Tom Martino, the host of the show, continually promotes the Troubleshooter referral list on the radio show and will also do so for the store.

We have reviewed the "cleaning articles", developed by Ms. Gigi Gordon and look forward to selling them on our web sight.

Our goal is to feature innovative, unique, and exceptional products. We feel her products will sell well through our on line store.

If you have any questions, please give me a call.

Sincerely,


Chris Kane
Sales Manager

424 Hazelnut Drive
Oakley California 94561
925-625-9683 Local
925-625-2310 FAX
800-554-4243 Toll Free

Sheahan Food Safety Consulting

Food Safety, Sanitation and Quality Systems Consultants to the Food Industry

July 8, 2002

Gigi Gordon

Dear Gigi:

You have a wonderful product!! Please send me 100 cases of the same type of sponges we discussed to the above address as soon as you can put the order together. My PO # is verbal and all billing information is the same.

If you have any questions please let me know.

Sincerely,



Michael J. Sheahan
Sheahan Consulting

Thank you for your order.
www.sheahanconsulting.com